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May 01, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

46 May 1, 2012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

RECOMMENDATION TO PROVIDE LEGAL REPRESENTATION FOR TWO DEPUTY DISTRICT ATTORNEYS IN THE DISTRICT ATTORNEY'S OFFICE FOR SEPARATE ADMINISTRATIVE PROCEEDINGS BROUGHT BY THE STATE BAR (ALL DISTRICTS) (3-VOTES)

SUBJECT

Request to provide legal representation for two deputy district attorneys for separate State Bar administrative proceedings.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Provide legal representation for two deputy district attorneys for separate State Bar administrative proceedings.
2. Find that the two administrative proceedings are brought on account of an act or omission in the scope of the deputy district attorneys' employment as employees of the Los Angeles County District Attorney's Office.
3. Find that the defense of these deputy district attorneys would be in the best interests of the County.
4. Find that the deputy district attorneys acted, or failed to act, in good faith, without actual malice, and in the apparent interests of the County.
5. Direct County Counsel to secure legal representation, at the County's expense, for two deputy

district attorneys in the District Attorney's Office.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

I am seeking Board approval to provide legal representation for two deputy district attorneys who have been requested to respond to State Bar inquiries regarding alleged violations of the California Rules of Professional Conduct.

One inquiry was generated by an unpublished opinion issued by the Court of Appeal of the State of California, Second Appellate District, Division Eight, on May 5, 2004, in the case of "The People of the State of California v. Marcos Salazar", LA040733. The court reversed the conviction of the defendant after finding prosecutorial misconduct.

I have reviewed the facts and circumstances surrounding this case. The deputy district attorney has been a prosecutor with the Los Angeles County District Attorney's Office since January 1990. At the time of the jury trial of defendant Salazar, the deputy district attorney was employed by the County of Los Angeles and was acting within the course and scope of his/her employment. My review reveals no indication that the deputy district attorney acted in bad faith or with actual malice. Rather, it appears that the deputy district attorney acted in good faith, without actual malice and in the apparent interests of the People of the State of California and the County of Los Angeles. We have been informed that the State Bar is no longer pursuing this matter; however, expenses have been incurred. It was necessary to quickly and aggressively respond to the inquiry in order to ensure its appropriate resolution. Consequently, legal fees in the amount of \$1,400 have been incurred.

The second inquiry was generated by a referral from the trial judge in the case of "The People of the State of California v. Demoria Jackson and Devin Murphy", TA040733. The court granted a motion for a new trial after finding prosecutorial misconduct.

I have reviewed the facts and circumstances surrounding this case. The deputy district attorney has been a prosecutor with the Los Angeles County District Attorney's Office since April 2001. At the time of the jury trial of defendants Jackson and Murphy, the deputy district attorney was employed by the County of Los Angeles and was acting within the course and scope of his/her employment. My review reveals no indication that the deputy district attorney acted in bad faith or with actual malice. Rather, it appears that the deputy district attorney acted in good faith, without actual malice and in the apparent interests of the People of the State of California and the County of Los Angeles. Further, I believe that the defense of this deputy district attorney would be in the best interests of the County.

Implementation of Strategic Plan Goals

The recommended actions support the County's Strategic Plan Goal No. 5, Public Safety, by ensuring that the committed efforts of the public partners continue to maintain and improve to the highest level of safety and security standards for the people of Los Angeles County.

FISCAL IMPACT/FINANCING

The costs for providing legal representation should not exceed \$20,000 for these deputy district attorneys. Funds will be allocated from the District Attorney's existing operating budget. If the costs increase, they will continue to be allocated from the District Attorney's existing operating budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Government Code Section 995.6 provides that the County is not required to provide for the defense of an administrative proceeding brought against a County employee, but the County may provide for such defense if:

- (a) The administrative proceeding is brought on account of an act or omission in the scope of his employment as an employee of the public entity; and
- (b) The public entity determines that such defense would be in the best interests of the public entity and that the employee acted, or failed to act, in good faith, without actual malice and in the apparent interests of the public entity.

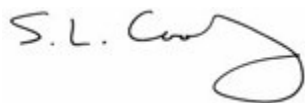
IMPACT ON CURRENT SERVICES (OR PROJECTS)

None.

CONCLUSION

I recommend that your Board find that both deputy district attorneys acted in good faith, without actual malice, and in the apparent interests of the County and that their representation before the State Bar is/was in the best interests of the County. I further recommend that your Board direct County Counsel to secure legal representation for one deputy district attorney and issue payment for expenses already incurred for one deputy district attorney at the County's expense.

Respectfully submitted,



STEVE COOLEY

District Attorney

no

c: Chief Executive Officer
County Counsel